
Directions
To the
SURVEYORS
OF THE
HIGHWAYS
&c.

13.11.31

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DIRECTIONS
To the
SURVEYORS
OF THE
HIGHWAYS

For the County of

WESTMORLAND:

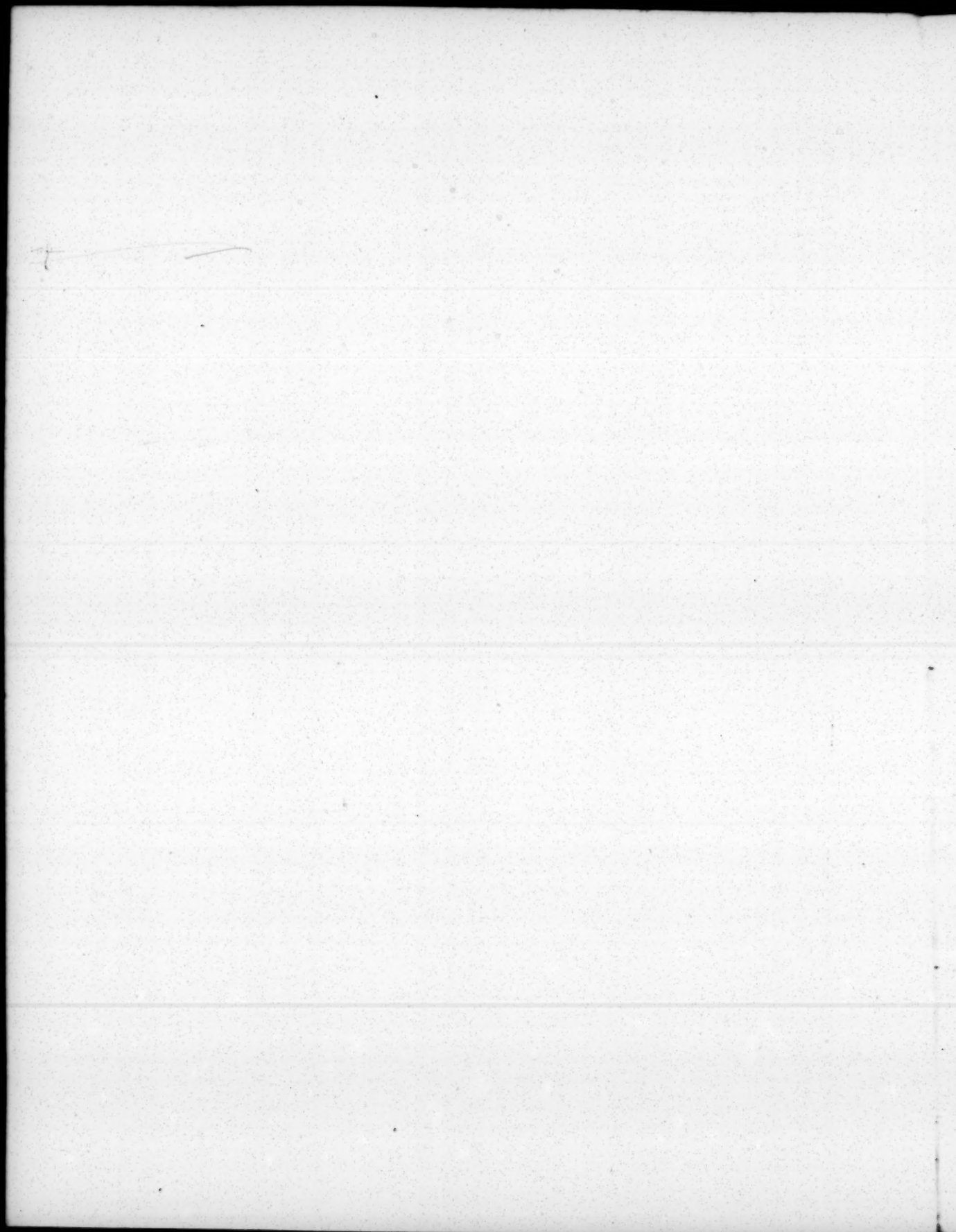
With some Observations on some
Laws concerning them.

By one of His **M A J E S T I E S** Justices of the
Peace, for the said County.

K E N D A L

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M.DCC.XXXIII.







D I R E C T I O N S

To the Surveyors of the
HIGHWAYS, &c.

GENTLEMEN,



UNDERTAKE to write to you in this publick Manner, because I think it my Duty, as a Justice of the Peace, to give you some Information of your's, as Surveyors of the Highways; and tho' I cannot perhaps tell you more of the good and necessary Laws, which are provided for repairing the common Roads, than you know; I may by these Means give you an Occasion to consider them more, than you do. Yet I must own, I am jealous, I shall not gain your Attention, or stamp an Impression upon your Minds: I fear, you will lay aside this Treatise with more Readiness, than you can peruse it; and much rather find a By-place for it in your Houses, than a proper One in your Hearts.

I am

I am very sensible, very certainly convinc'd by the present ill and inconvenient Condition of the Highways, that you pay no Deference, shew no Obedience to the Directions which have been frequently deliver'd to you for the Discharge of your Office; and the wise and strong Charges which have been with Zeal pronounc'd to you from the Bench, have no sooner been out of the *Mouth* of any Justice, than out of the *Head* of every Surveyor.

This your Conduct is very contemptuous; for which there is a *Method* of severe Punishment fix'd and a *Measure* of it stated; and I am induc'd to publish this Essay in order to rectify your Errors, awaken your Understanding, and soften, if I cannot subdue, your Obstinacy; to remove Slowness from the Resolutions of your Mind, and Supineness from the Executions of your Office; to stir up the whole Surveyor in you, to put him upon diligent Action, and to make him more attentive and faithful in the Prosecution of his Duty,

I am very ready to believe these my OBSERVATIONS will be pester'd with the Peevishness of many Criticks, and slighted by the Inactiveness of many Surveyors: On the one hand a Swarm of Wasps will Issue forth against me, who will buzz about my Work, & shoot their Stings into every Paragraph of it; and on the other, will be a Number of Drones, who are too slothful to move out to gather, or bring in, or labour for any Advantages to themselves or their Fellow-creatures, or in other Words, who make Duty no more their Care, than if it was not their Concern. Yet I can be very easy to my self, whilst I sincerely endeavour to be useful to my Countrymen; and shall always enjoy the secret Satisfaction, that my Design is good, tho' it shall meet with the sharpest Censures from the Ill-natur'd, or the greatest Disappointments from the Idle. I shall leave the Success of it to you, and comfort myself with the Opinion of a very Great Man, *that Good Intentions are at least the Seeds of Good Actions;*
and

and every Man ought to sow them, and leave it to the Soil, and the Season, whether they come up or no, and whether he, or any other gathers the Fruit.

It is strictly incumbent upon you well to repair or procure to be repair'd all Causeways and Pavements in the Highways, to make secure Fence wheresoever there shall be any Precipices, or perilous Declivities adjoining to the Highways; to make the Roads near as you can level, and to fill up all dangerous Holes in them with the solid Materials of Stone & Gravel, not with Mould, which may be wash'd away by an *April* Shower or blown away by a *March* Wind. You are also indispensably oblig'd to present unto the Justices of the Peace, or some of them in writing, the Name or Names of all and every Person or Persons who shall refuse to appear at the Work on the Highways, or when they shall appear, do neglect to Work duly and industriously eight Hours of the Day. You ought to be very watchful over these obstinate, inactive Men; for if they will not take due Pains, upon your Information, due Punishments must be inflicted on them: Forwardness was never the Excuse of a Fault, nor can Idleness be it's own Attonement. They must not imagine, that the Magistrates will be so indolent to indulge their Laziness, or so weak to allow their Perverseness to get the better of the *Designs*, or control the *Powers* of Law. Many of your Inhabitants attend the Works on the Ways to no more Purpose, than if they were absent: They spend or rather waste Time in playing with a shovel, a Spade or a Mattock, in officiously sauntering, in busily making a mere Show of Labour without Action, or, without attempting to do any thing, in strenuously controverting what is to be done. But these active, indolent Creatures must be admonish'd and made to know, that this Procedure, is only bustling *to do nothing*, being industrious *to be Idle*, and becoming entirely useless when they should be extremely usefull Members of Society.

it is very rare that any of these Delinquents are represented to the Magistrates; for which reason, I must conclude, their Idleness arises from your Indulgence; and I believe a Want of Duty in them, is very much owing to a Want of it in yourselves. They have perform'd a certain private Kindness to you, therefore may, unheeded by you, omit doing their good Offices to the Publick, and as long as they continue your *obliging* Neighbours, they may safely be his Majesty's *offending* Subjects. But be assur'd, this Behaviour will be brought to strict Account. The good Turn, as you call it, the Act of Hospitality, or other good natur'd Deed of an intimate Acquaintance will not be an Excuse for your concealing his Defaults, nor can the Obligations of the *Surveyor* be cancell'd by those of the *Friend*. Every one of you, Gentlemen, must be examin'd upon Oath concerning every Branch of your Duty, and you will then receive Conviction, that the Magistrates are too publick spirited to pardon your self-interested Views, too discreet to overlook your Indiscretions, and too consistent with themselves to grant a *Toleration* to Neglects Intolerable. You are strongly enjoyn'd and confidently entrusted to make Presentment of all, and every Person and Persons, who for making Dung, or on any other Pretext whatsoever, shall lay in any Highway, not being twenty Foot broad any Stone, Timber, Straw, Dung, or other Matter, and if the Owners and Occupiers of the Lands adjoining the Highways shall not within ten Days after your Notice given to them, clear the said Ways of the said Nuisances, they forfeit five Shillings for every Offence, which Sum, you will, by the Justices of the Peace, be empower'd to levy upon them. For the Justices are resolutely determin'd to punish these worthless, pernicious Men; they will never suffer them to make Dung in the Roads, or improve their Lands by impairing the Highways, or gratify a *Private Interest* by a detriment to a *Publick Good*. These Wretches,
which

which I have here mention'd to you, are become so saucy and insolent, that they throw Annoyances into the common Roads, as frequently, as if they had a Protection for doing so, as openly, as if it was legal to affront the Laws: But the Magistrates peremptorily insist, that you, Gentlemen, and every of you, do from Time to Time, give Notice to these Offenders to remove their Nuisances, and you must assure them, their *Impudence* shall not discountenance an *Indictment*, nor can the Vileness of their *Custom* disable the Vigour of *Justice*. I am apt to believe this Species of Transgressors grows sanguine in their Transgressions by your imprudent good Nature and ill-judg'd Tenderness to them. The *Ancestors* were accusom'd to lay Straw, Hay, Fern or Stubble in the common Roads, therefore you permit the *Successors* to do so; you allow them a kind of *Birth-right* to do Wrong, and admit the Antient Usage of the Fault to be a Sanction to it. In short, I fear you pay a Deference to this sort of Offence, because it is *Old*, and I am sure, you show Compassion to the Persons guilty of it, when you ought to pursue Measures for their Conviction. This is a detestable Proceeding, and at once ignominious to you, and injurious to a whole Community. You may indeed please the Offenders I have mention'd, by encouraging their Crime with your Connivance, and Countenancing the Habit of their base Practice, by that of your baser Partiality; but you must be *ill-dispos'd Men* as well as *ill-behav'd Surveyors*, if by such Conduct, you can please yourselves.

GENTLEMEN,

THERE are many Laws made for the Reparation of Highways contriv'd with Wisdom, arm'd with Penalty, and enforc'd with Power, and I shall draw out to your Review a few Recitals of them, that you may know, if

you do not already, and if you do, that you may be reminded of the Orders you are bound to obey, and the Rules appointed for you to walk by.

‘ By the 5th. of *Eliz. Cap. 13.* It is Enacted, That the Heyes, Fences, Dikes, or Hedges next adjoining on either side to any High or common-fairing way, shall from time to time be diked, scour’d, repair’d and kept low, and all Trees and Bushes growing in the Highways, cut down by the Owner or Owners of the Ground or Soil, which shall be inclos’d with the Heyes, Fences, Dikes or Hedges aforesaid, whereby the said Ways may be open, and the People have more easy and ready Passage in the same, and by 18th *Eliz. Cap. 10.* all and every Person committing Offence against the above recited Act shall lose and forfeit for every Default, ten Shillings.

‘ By the 3d and 4th of *W. and M. Cap. 12.* It is enacted no Tree, Shrub or Bush, shall be permitted to stand or grow in any Highway not full twenty Foot broad, but the same shall be cut down, grubb’d up and carried away by the Owner or Owners of the Soil within ten Days, after Notice given by the Surveyors on pain to forfeit five Shillings for every Neglect; and the Possessors of the Land adjoining to such Highways where they are not 20 foot broad shall from time to time and at all times keep their Hedges so plash’t, cut or prun’d, right up from the roots as no Tree, Bush, Shrub or Branches thereof shall spread into or hang over the same.

Whilst these Annoyances spread into, hang over, and infest the Highways; what do you think? Can either you the Surveyors, or they the Owners and Possessors, vindicate a Disobedience to the wise Injunctions recited, which carry in them Convenience to the Publick, as well as Command, and no less Advantage, than Authority? Is it not intolerable, that Travellers cannot proceed on their Journeys free from
 Danger

Danger and clear from Damage? Is it not unpardonable, that laden Carriages cannot have Passage without either Prejudice or Obstruction, and that the very Sun, through a Neglect of cutting the Hedges, is shut out from Drying the Roads, and bestowing it's common Influence to amend them? As the Highways are very seldom disincumber'd of these pernicious Disadvantages, I must impute them to your Neglects, your base Neglects, which are highly affronting to the Legislature, extremely infamous to yourselves, and grievously inconvenient to your Fellow-Subjects, If you the respective Superintendants of the Ways in every Township, were sincerely earnest in prosecuting your Duty, the Inhabitants would be more faithfully exact in performing theirs; and when the former exerted *Courage* by acting up to the Requisites of Law, the latter would set their *Conduct* at work to obey the Precepts of it.

When you find the Highways are not sufficiently widen'd for Carriages to pass and repass by each other with Ease and Readiness, it is your bounden Duty to apply to the Justices of the Peace at their General Quarter Sessions; five of whom at least, are authoriz'd by the 8. and 9 *Will. 3. Cap. 16.* to enlarge them; so that the Ground to be taken into the Highways do not exceed eight Yards in Breadth, and that they do not pull down any House, or take away the Ground of any Garden, Orchard, Court or Yard: And for the Satisfaction of the Persons who are Owners, or may be interested in the said Ground that shall be laid into the said Highways, the said Justices are empower'd to impanel a Jury before them, and to administer an Oath to the Jury, that will assess such Damages to be given, & such Recompence to be made to the Owners, and others interested in the said Grounds, for their respective Interests as they shall think reasonable, not exceeding twenty five Years Purchase: And likewise such Recompence as they shall think reasonable for

making a New Ditch or Fence to that Side of the Highway that shall be so enlarg'd; and also Satisfaction to any Person that may be otherwise injur'd by the enlarging of the said Highways: And the Justices of the Peace, being five at least, have Power to order one or more Assessment or Assessments to be made and collected; and the said Assessment or Assessments, by order of the said Justices, shall be levied by the Overseers of the Highways, by Distress and Sale of the Goods of Persons so assess'd, not paying the same within ten Days after Demand. Provided nevertheless, that no such Assessment or Assessments made, in any one Year, for enlarging of Highways, shall exceed the Rate of Six Pence in the Pound, of the Yearly Income of any Lands.

We are all sensible, and must all acknowledge the Highways in this County do extremely want enlarging. Travellers declare they can scarce squeeze through them; Carriers protest their Carriages are often imprison'd by the narrowness of them, and the Tradesmen's *Complainings* against them are daily *heard in our Streets*. These are Detriments that ought to be remov'd, Grievances, which must be redress'd, and the Law has furnish'd ample Power to do both. Indeed some Persons may fancy from the Non-execution of the Statute in this Country, that the Force of it does not reach thus far on this side of *Trent*; or may conclude it to be confin'd to some *Circle* in the *South*, and so powerfully *Charm'd* there, as not to have an Ability to move out of the Bounds set for it; but this Act has no such Restraint laid upon it's Extent; and I cannot understand why an Execution of it in the *North* should be thought barbarous, when it has been so very beneficial in other parts of the Kingdom.

Some will say that the Narrowness of the Ways was in former Days overlook'd, therefore it ought now to be so our Predecessors were contented with the Roads, why should we be displeas'd with the present State of them? They are
as

as good as they were in past Ages, and tho' they would certainly be better if they were Wider, we are against all Innovations. This Argument is abominable, and carries nothing in it but Sloth, Supineness and Weakness of Understanding: It is telling a Man, that it is an Indecorum and Irreverence to the Memory of an Ancestor, to attempt to be more wise and more useful than he was; it is, by an a postate Form of Logick, asserting the Roads should not be enlarg'd, because they would be more convenient for being so; that no *Alteration* ought to be made in them, for fear of the evil Consequences of *Amendment*; and directly making the *Excellence* of the Statute an Objection against an *Obedience* to it. I say this Argument is abominable: It is an Affront to all Order, Law and Regulation, a Discountenance to Industry and Improvement; a Discouragement to Art, Invention, and publick Spirit: Yet when I consider that this inverted Method of reasoning has neither the Form of common Sense, nor the shew of Regard to common Good, I am at a Loss to determine, whether more Indignation is due to the Baseness, or more Compassion to the Folly of it.

I am apprehensive, enlarging the Highways in this County may appear strange and prove unacceptable to various Persons at first Thought: But when they consider this Innovation is to be made, to take away Inconvenience, when they reflect on a little Expence procuring great Advantages, and and that a widening the common-faring Roads will be very beneficial to all People, the exceptions Men will disclaim all narrow spirited Objections, the stubborn will run into Compliance, and even the perverse will rejoice in the Measures taken for the common Good.

I repeat to you, Gentlemen, that enlarging the Highways is a common Good, with which no Man can have Reason to be displeas'd. For it would be a monstrous Inconsistency for any One to be uneasy, because his Passage to transact his Affairs

faults is made more easy, to grieve at the Removal of Grievances, or think himself more injur'd when he is less expos'd to be so: It would be unaccountable Frenzy for a Person to grumble, when his Interest is gratify'd, to be offended, where he should be thankful, to turn a Malecontent under desirable Ease, and a Rebel against his own Welfare.

But, I pray you Overseers of the Highways to observe, how wisely, how carefully the Parliament has contriv'd and modell'd this Law for enlarging them. No Ground can be laid into them without Recompence to the Owner, and Satisfaction made for the Damages done to him; and the Assessment cannot exceed Six pence in the Pound, in any one Year, which, when justly weigh'd with the Conveniences arising from it, can never be thought an Hardship. The Obstinate, when they turn their Eyes to the Emolument of the Publick, will see it only to be an agreeable Force; and the Covetous can never feel it heavier, than a light Burthen. Thus when the before recited clause is executed, Publick Good will be supported without Oppression of private Right; the Community will receive a large Benefit, no Individual Member the least Injury. Thus the Authority of the Legillator is so temper'd with Tenderness to the Subject, that no Spirit moves in the said Statute but publick-Spirit, no Interest is enforc'd but that of the whole Society.

There is nothing more common than for you, the Supervisors of the Highways, to think the doing an Action for the Use of the Publick a very vexatious Hardship; and you had much rather take Pains to hunt out an Excuse for an Inexcusable Neglect of your Duty, than regularly to proceed in Ways & Means to perform it. But to prevent in some Measure your Shifts & Subterfuges, & to inform you of the Authority as well as Necessity of your Office, I shall transcribe for your use three Paragraphs out of the Statute enacted the 5. Eliz. Cap. 13.

‘ And for as much as the Statute made in the second and
‘ third

' third years of King *Philip* and Queen *Mary*, in divers parts
 ' of this Realm serveth not to so good Purpose and Effect as
 ' it may be made, for that such Substance and Matter as is
 ' most fit and convenient for the Preparations of the said
 ' Ways, cannot be lawfully had, fetched and taken out of the
 ' several Grounds and Soil thereunto nigh or adjoyning, being
 ' no great Loss or Detriment to the Owners of the same
 ' several Grounds and Soil, whereby the Amendment of the
 ' said Ways is little increased, or else of very small and slender
 ' Continuance, to the great and continual Charge and
 ' Trouble of the poor People inhabiting thereabouts.

' For Reformation whereof, and that the Reparations of
 ' of the said Highways may hereafter in good due Manner,
 ' well and sufficiently be made, Be it further by the Authority
 ' of this present Parliament enacted, that from henceforth
 ' it shall and may be lawful to all and every Supervisor
 ' and Supervisors, and Orderers of the Works for the
 ' time being, for the Amendment of the said Highways,
 ' thereunto elected and appointed, according to the Statute
 ' made in the second and third years of King *Philip* and
 ' Queen *Mary*, for the better Reparation and amendment of
 ' the Ways within their several Parishes and Limits wherein
 ' they shall be so made Supervisors (if it shall be so to
 ' them thought necessary) to take or carry away of the
 ' Rubbish or smallest broken Stones of any Quarry or Quarries
 ' lying and being within the Parish where they shall be
 ' Supervisors, without Licence, Controllment or Impeachment
 ' of the Owner or Owners, so much as by their Discretions
 ' shall be deem'd and adjudg'd necessary for the Amendment
 ' of the said Ways: And that for Default of any
 ' Quarry or Quarries not being within their said Parish or
 ' Limits, or in Default of Rubbish not to be found in any
 ' such Quarry or Quarries, it shall and may be lawful to every
 ' such Supervisor or Supervisors, for the Use aforesaid,

' in

in the several Grounds of any Person or Persons being within the Parish or Limits where they shall be Supervisors, and nigh adjoining to the Way or Ways wherein such Reparations shall be thought necessary to be made, & wherein Gravel, Sand or Sindors is likely to be found, to dig or cause to be digged for Gravel, Sand or Sindors, and likewise to gather Stones lying upon any Lands or Grounds within the Parish, and meet to be used to such Service and Purpose, and thereof to take and carry away so much as by the Direction of the said Supervisors shall be thought necessary to be employed in the Amendment of the said Highways

Provided always, That it shall not be lawful to any such Supervisor or Supervisors by Virtue of this Act, to cause any Rubbish to be digg'd out of any Quarry or Quarries, but only shall extend to such Rubbish as shall be found there ready digged by the Owner or Owners of the said Quarry or Quarries, or otherwise by his or their Licence and Commandment; nor shall it extend or give Authority to any Supervisor or Supervisors, to dig or cause to be digged any Gravel, Sand or Sindors, in the House, Garden, Orchard or Meadow of any Person or Persons; nor that it shall be lawful by this Act to any such Supervisor or Supervisors, to cause any more Pits to be digged for Gravel in any several and enclosed Ground than one only; and that the same Pit or Hole so digged for Gravel, as is aforesaid, shall not by any way be in Breadth or Length above ten Yards over at the most: And that every such Supervisor as shall cause any such Pit to be made and digged for Gravel, Sand or Sindors as is aforesaid shall within one Month next after any such digging or Pit made, cause the same to be filled and stopped up with Earth, at the Costs and Charges of the Parishioners, upon Pain to forfeit to the Owner or Owners of the Soil wherein any such Pit shall be made
and

‘ and digged, for every Default, Five Marks, to be recovered by Action of Debt as in other like Cases of Debt hath been accustomed.

If you will think attentively, if you will make Researches into the preceeding Paragraphs, which I have drawn out for your Perusal, you will discover that the *Goodness* of the Legislature has contriv’d the Execution of your Duty to be as *easy*, as the Ill State of the Highways has made it *necessary*, and you are left without any Excuse, if the Influence and Efficacy of the said Statute do not appear in a more *Careful*, since it is design’d for a less *Chargeable*, Reparation of the Roads.

I cannot here omit taking notice, that there are some Surveyors of the Highways who say they cannot sufficiently amend them, because they cannot procure Materials without the greatest Inconvenience, and an extraordinary Expence of Labour and Money: This Kind of Talking is all over Evasion and Falsehood; a full Contradiction to the Law, I have just now quoted, and a most foul Reproach to their own Consciousness. Every Township, every Parish, all the County of *Westmorland* is full of the most and the best Materials in the Kingdom for repairing Highways: Stone and Gravel are at hand in every Place; they lay almost adjoining to every Common Road: Not any Thing necessary, not any Thing convenient, not any Thing useful is wanting to accomplish an Amendment of the Ways, but an Amendment of your *inactive Conduct*. Yet (with Sorrow and Indignation I say it) you permit Idleness to be your Tyrant, instead of Industry to be your Master; you choose rather to be Slaves to the Encroachments of Sloth, than Servants to the Enterprizes of Labour, and in a manner most shamefully ungrateful, and undutiful, you slight at once the Favours of Nature, and the Obligations of Law.

As I would be glad to use any Argument to incite you to

the laudable and necessary Work of repairing the Highways, I cannot forbear reciting to you a Part of the extraordinary Preamble of the Act made and provided the 3d. and 4th of *W. and M. Cap.* 12. ‘Whereas the free and easy
 ‘ Intercourse and Means of conveying and carrying Goods
 ‘ and Merchandizes from one Market Town to another, contributes very much to the Advancement of Trade, Increase
 ‘ of Wealth, and raising the Value of Lands, as well as to
 ‘ the Ease and Convenience of the Subject in general; for
 ‘ which Ends therefore divers good and necessary Laws have
 ‘ been heretofore made for the Enlarging, Repairing, and
 ‘ Amending the Highways and common Roads of this Kingdom.

Can you after reading and digesting this Preamble continue to neglect making sufficient Reparations of the Highways? Dare you oppose your Folly to the Wisdom of Legislative Power, your Idleness to the Care, and your Contumacy to the Authority of it? Can you forget that a free and easy Intercourse, for carrying of Goods and Merchandizes from one Market Town to another, is an Advancement to Trade, an Increase of Wealth, and a raising the Value of Lands? Give me leave with some Warmth to tell you, if you do not promote these three Fundamentals of publick Happiness; you are dishonest to your Country, disserviceable to yourselves, and basely ungrateful to the Best Benefactors. Reflect, I beseech you, on the Benefits which accrue from Trade and Merchandize to the common Welfare of *Great Britain*. Had you not the Blessing of something more than arises from the natural Product and Growth of your Lands, you would find this Island a very uncomfortable Scituation. The Number of Poor would be excessive, and the produce of the Nation would be of low Value, did not Commerce export it, and bring in Augmentations of Wealth by doing so. You may indeed be furnish’d with meer Necessaries at home,
 but

but divers things of Use, of Convenience, and Ornament arrive to you from abroad. In a word, were not Manufactures prosperous, did not Traffick carry out the Superfluities of the *British* Island, and bring in Supplies to it's Wants, the Poor must want Employment, the Active would become Indolent, and the Wealthy, Indigent.

Think then, Gentlemen, of the Preamble which I have before recited to you, and believe the Repairs of the Highways to be Matters of more sensible Concern, more important Consideration, and more extensive Advantage, than you have at any time taken the Trouble, or done even yourselves the Justice to esteem them. Consider whilst you enlarge, and amend the common Roads, that you are making *Easy Means* and *Free Intercourse* for conveying the Blessings, which the industrious Tradesman at home procures for you, with the Sweat of his Brow, and the adventurous Merchant brings with Peril of Life, from very remote Parts of the Earth. Recollect that whilst you are working on the Ways the SIX DAYS (a small portion out of three hundred and sixty five) with due Diligence and Industry, or whilst you are with Chearfulness paying an Assessment for the Amendment of them, that you are contributing at the same time to advance the Value of your own Estates, and to encrease the publick Wealth. Thus apply your Thoughts and Actions, and you will find the Expences of Time, Money, and Pains reimburs'd by useful, and very beneficial Consequences. Thus you will find your Duty an Interest, the Obligations you lay under, Advantages, and your very Toil, your Ease.

I have now laid before you several Parts of your Duty in the best Manner my Understanding could enable, or my Leisure permit me: I have recommended the Execution of your Office to your *Judgment* by well-intended Argument, and to your *Duty* by well-instituted Law, and tho' you should

not approve the Former, you are bound in all Points to conform to the latter. Yet I do not think I have sufficiently discharg'd myself without reciting the two following Paragraphs of the two Statutes, which it behoves you to peruse with a strict Attention, and pursue with a steady Fidelity.

3d. and 4th. *W. and M. Cap. 12.* ‘ And be it further En-
 ‘ acted by the Authority aforesaid, That every Surveyor of
 ‘ the Highways, appointed as in and by this Act is directed,
 ‘ shall within fourteen Days next after his first Acceptance
 ‘ of the said Office, and so from Time to Time every four
 ‘ Months, during his being Surveyor, take a View of all the
 ‘ Roads, Common Highway’s, Water Courses, Bridges,
 ‘ Cawsey’s and Pavements, within the Parish, Town, Vil-
 ‘ lage, Hamlet, Precinct or Tything, for which he is ap-
 ‘ pointed Surveyor, that are to be repaired by the said Pa-
 ‘ rish, Town, Village, Hamlet, Precinct or Tything, and
 ‘ shall make a Presentment upon Oath, in what State and
 ‘ Condition he finds the same respectively, to some Justice
 ‘ of the Peace of the same Division, if then Resident there,
 ‘ otherwise to some neighbouring Justice of the Peace for
 ‘ the said County, and in Default thereof shall incur the
 ‘ Penalty aforesaid, as if he or they had refused or neglect-
 ‘ ed to accept and execute the said Office, unless he shall
 ‘ have some reasonable Excuse for omitting the same, to
 ‘ be allowed of by two Justices of the Peace of the same
 ‘ Division of the County, or in Default thereof by the
 ‘ two neighbouring Justices, and what Defaults or Annoy-
 ‘ antes they shall find in any of the said Highways Cawsey’s,
 ‘ Bridges, Ditches, Hedges, Trees, Water Courses, Drevns
 ‘ or Gutters next adjoyning to the same, they shall from
 ‘ Time to Time the next Sunday immediately after Ser-
 ‘ mon ended give Publick Notice of the same in the Parish
 ‘ Church, and if the same shall not be removed, repair-
 ‘ ed

' ed and amended within Thirty Days after such Notice
 ' given, that then the said Surveyor or Surveyors of the
 ' said Highways shall within Thirty Days remove, repair,
 ' and amend the same, and dispose of the same Annoy-
 ' ances to and for the Repair of the said Highways; and
 ' the said Surveyor and Surveyors shall be reimbursed what
 ' Charges and Expences they shall be at in so doing, by
 ' the Parties who shall have done the same; and in Case
 ' the said Parties shall upon Demand refuse or neglect to
 ' Pay the said Surveyors their said Charges, then the said
 ' Surveyors shall apply him or themselves to any Justice of
 ' the Peace within the Division of the County wherein
 ' such Highways are, and in Default thereof to any Neigh-
 ' bouring Justice for the said County, and upon his or
 ' their making Oath before such Justice of the Notice to
 ' the Defaulter in manner aforesaid, which Oath the said
 ' Justice is impowered and required to administer, That
 ' then the said Surveyors shall be repaid all such their
 ' Charges as shall be allowed to be reasonable by the said
 ' Justice, to be levied in Manner aforesaid.

' 1st. Geo. 1st. And be it Enacted, That all Surveyors
 ' of the Highways, appointed or that shall be appointed
 ' by virtue of an Act of the 3^d. and 4th. of King *William*
 ' and Queen *Mary*, Intituled an Act for the better repairing
 ' and amending of Highways, and for Settling the Rates
 ' and Carriage of Goods shall within fourteen Days after
 ' their Acceptance of their Office, and so from Time to
 ' Time every four Months or oftener if required thereto
 ' by Warrant of any two or more Justices of the Peace
 ' view all the Roads, Common Highways, Bridges, Cause-
 ' ways, Pavements, Hedges, Ditches and Water-Courses
 ' appertaining to such Highways, together with all Nu-
 ' sances or Incroachments made or committed in or upon
 ' any of them, within the Parish, Township, Village, Ham-
 ' let

' let, Precinct or Tything where they are Surveyors, and
 ' give a particular and true Account in Writing upon Oath
 ' of the State and Condition of all such Highways, and
 ' more especially of such Faults or Defects in any of them,
 ' as want to be amended or repaired and of the Neglects
 ' of Labourers, and of those that are obliged to find La-
 ' bourers or Teams for the Repair of the Highways, as
 ' required by Law, to the Justices at their next special
 ' Sessions to be holden for the Amendment of the High-
 ' ways, according to the said recited Act, to the end that
 ' the said Accounts may be carefully preserved, and that at
 ' all future Sessions the Justices of the said Division may
 ' have full Information of, and may be able to examine
 ' into the particular State and Condition of all the Roads,
 ' Bridges, Causeways, Pavements, Hedges, Ditches and Wa-
 ' ter-Courses as aforesaid, and may the better execute the
 ' Powers in the Laws relating to Highways; and all Sur-
 ' veyors neglecting to give such Account as aforesaid shall
 ' suffer the same Penalty as if they refused to execute the
 ' said Office, to be levied and disposed of, as by the afore-
 ' said Act is directed, unless they shall have some reasonable
 ' Excuse for omitting the same, to be allowed by the Justices
 ' of the Peace of the same Division at such their special
 ' Sessions.

Remember, Gentlemen, the latter of these Paragraphs
 requires you to give the Justices of the Peace an Account
 every four Months (and oftner if required by Warrant
 of any two or more Justices of the Peace) of the Con-
 dition of the Highways and what is more to give it in
 writing upon Oath. On this occasion it behoves you all
 closely and seriously to consider, that the Engagements un-
 der which you lay by Civil Authority, are invigorated by
 those of Holy Religion; and that the Dutiful Christian is
 made the Test of the Diligent Surveyor. You deceive your-
 selves

selves in the most heinous Manner, if you make the Obligation of an Oath, the Occasion of a Jest, or treat an Act with the Sallies of Levity, which requires the Sincerities of the most Sacred Regard. You cannot break loose from the Ties of an Oath, after they are fasten'd upon you: They will stick as close and as constant to you, as Thought and Conscience; and if you think to make Use of the Frauds of Evasion, Equivocation, or mental Reservation; if you fancy, like the *Græcian* Heathen, that you can Swear one thing with your Mouths, and another with your Hearts, you are unjust to yourselves, Immoral to your Fellow-creatures, and highly Irreligious to the Almighty God.

The Fine affix'd in this case to your Neglects is five Pounds: Yet you may avoid the the Imposition of it by being neither careless, nor afraid, nor ashamed to do your Duty: But it would strike horror upon the Mind, even to imagine that you should aggravate your Defaults by Perjury, and become *abandon'd Wretches* to screen the *negligent Men*; that you should commit a most penal Crime, for Fear of Penalty, and cover a Want of *Care* with a Want of *Conscience*. In short, I must repeat to you, if you Perjure yourselves (which Charity engages me to wish, and your natural Honesty to hope, none of you ever will do) that you are (beyond all Dispute) most perfidious Traytors to Men, and most profligate Rebels to your Maker.

As I am now treating upon the Subject of the Highways, I cannot omit taking Notice of the Remonstrance, which is usually made against the Neglects of the Justices of the Peace (of which Number I have the Honour to be One) as well as that, which is drawn up against the Surveyors. We are censur'd by many, very many, both our Countrymen and Travellers; and there is not any thing to be heard more frequently in Conversation, than Complaints, on this Occasion, against Ourselves. What signifies it (say the People) to be concern'd

cern'd about the inconvenient Condition of the Common-fairing Roads, when the Magistrates themselves are unconcern'd to redress the Grievances of it? What doth it avail to inform that Labourers attend their Summons to the Highways without Industry, and Workmen without Implements; that some Inhabitants are too obstinate even to appear at the Works on the Roads and others too impudent to remove the Nuisances, which damage and obstruct them, when the JUSTICES never inflict the PAINS appointed by the Statutes for such Offences? To what purpose do they hold the Lashes of the Law in their Hands, when they do not scourge Defaulters with them? Or why should they suffer such an inactive Conduct in themselves, as does not become the *Operations* of Wisdom, or shew such *partial Connivance*, as bears not any Relation to the *Blindness* of Justice? Why should the Magistrates talk of the Authority, which the King has invested them with, whilst they do not exert it. Or to what Advantage or Use, do they tell the Country of the Spirit of good Laws, when they do not demonstrate any of their own by executing them? Why should they threaten to impose Fines, who never levy any? Or make Promises of Punishment, when such their Promises (as a celebrated Author said on another occasion) *are in the mildest Construction, as Mysterious, as the Prophecies of Old, by no Man to be well understood, 'till they are fulfill'd?*

These Reflections are not more common than reasonable, and I must for my own part confess to you, Gentleman, that when we are nothing *more* than mere Names and Shadows of Magistrates, I believe you will be nothing *better*, than Idle and Indolent Surveyors; and I am confident there will for ever be a Want of your strenuous Industry, whilst there is a Want of our strict Severity.

But I do not doubt the Magistrates will determine to pursue such New Measures, as will reform your Old Ones; the more we
consult

consult our Reason, the stronger is our Passion for the due Reparation of the Highways; the more we recollect the Ill state of them to be *General*, the less Cause we find why it should be *Perpetual*: As we could not formerly effect the good Repair of the Ways by the Incentive of Indulgence, we shall now be solicitous to accomplish it by the Impulse of Penalty, and what Punishments have heretofore with Solemnity been promised, will, I hope, hereafter with Severity be perform'd.

You all wish, you all earnestly desire to have the Highways well amended; therefore your anxious Endeavourings to make them so, is nothing more than prosecuting the Course of your Inclinations, and obeying at once your own, and the Will of the Legislature. But since you do not at present pay any Deference to our Admonitions nor give any Compliance to those of your own Hearts, we shall, I hope, for the future pursue all such Supervisors of the Highways, and Inhabitants, with the Rigour of the Statutes, who shall behave themselves in such manner as if Disobedience was their Profession, Idleness their Business, and an entire Neglect of Duty their fix'd Resolution.

F I N I S.





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